

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3

JAN 24 2020

4 UNITED STATES OF AMERICA
5 (PLAINTIFF)

MITCHELL R. ELFERS
DATE: 01/24/2020

6
7 VS ~

MOTION TO DISMISS
INFORMATION ON TWO COUNTS
OF CONVICTION FOR LACK OF
JURISDICTION

9 MICHAEL J. NISSEN
10 (DEFENDANT)

11
12 CASE # 1:19-CR-00077-JB
13

14 MOTION TO DISMISS INFORMATION ON TWO
15 COUNTS OF CONVICTION FOR LACK OF JURISDICTION
16

17 NOW COMES, MICHAEL J. NISSEN, DEFENDANT,
18 (HEREIN-AFTER, DEFENDANT) IN THE ABOVE ENTITLED
19 ACTION, RESPECTFULLY MOVES THIS HONORABLE COURT
20 TO DISMISS INFORMATION OF COUNTS I AND II ON THE
21 FOLLOWING GROUNDS:

22
23 1) COUNTS I AND II OF THE INDICTMENT AND
24 CONVICTIONS ALLEGE INSUFFICIENT FACTS TO CONSTITUTE
25 AN OFFENSE AGAINST THE LAWS OF THE UNITED
26 STATES.

27
28 2) COUNTS I AND II ALLEGE FACTS OVER WHICH

1 THIS COURT HAS NO JURISDICTION OR VENUE.

2

3 3) COUNTS I AND II CHARGE THE SAME OFFENSE AND
4 IF DEFENDANT IS PROSECUTED UNDER EACH COUNT
5 HE WOULD BE TWICE PLACED IN JEOPARDY AND COULD
6 BE TWICE CONVICTED FOR THE SAME OFFENSE IN
7 VIOLATION OF THE DOUBLE JEDPARDY PROVISION OF
8 AMENDMENT 5 OF THE UNITED STATES CONSTITUTION.

9

10 4) ON OR ABOUT 18th DAY OF DECEMBER, 2018 THIS
11 DEFENDANT WAS NEVER NOTIFIED OR SUBPOENAED
12 AND NEVER COMPELLED TO APPEAR BEFORE THE GRAND
13 JURY BY THE UNITED STATES ATTORNEY WHILE THE
14 UNITED STATES ATTORNEY AND THE GRAND JURY WERE
15 INVESTIGATING DEFENDANT'S CONDUCT FOR ALLEGED
16 OFFENSES AGAINST THE LAWS OF THE UNITED STATES,
17 INCLUDING VIOLATIONS OF THE UNCONSTITUTIONAL
18 STATUTES CITED IN THE INFORMATION. THE
19 UNCOMPELLED APPEARANCE OF DEFENDANT~~S~~[sic] BEFORE
20 THE GRAND JURY WHILE THE GRAND JURY AND THE
21 UNITED STATES ATTORNEY WERE INVESTIGATING
22 HIS CONDUCT, THE FAILURE TO ADVISE OR WARN
23 DEFENDANT THAT HE WAS BEING INVESTIGATED,
24 AND THE USE OF ANY AND ALL EVIDENCE OBTAINED
25 DIRECTLY OR INDIRECTLY FROM THIS APPEARANCE
26 IS VIOLATIVE OF DEFENDANTS PRIVILEGES
27 AGAINST SELF - INCRIMINATION UNDER THE
28 FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

1 THERE IS A MISJOINDER OF DEFENDANTS AND
2 OFFENSES IN THE INDICTMENT.

3
4 5) THIS COURT LACKS SUBJECT MATTER JURISDICTION
5 BECAUSE THE STATUTES UNDER WHICH DEFENDANT IS
6 CHARGED IN COUNTS I AND II OF THE INDICTMENT
7 CANNOT LAWFULLY BE APPLIED EXTRATERRITORIALLY.

8
9 6) THE STATUTES UNDER WHICH THE DEFENDANT
10 IS CHARGED AND CONVICTED IN COUNTS I AND II OF
11 THE INDICTMENT ARE AN INVALID EXERCISE OF
12 CONGRESSIONAL POWER IN VIOLATION OF THE
13 COMMERCE CLAUSE OF THE UNITED STATES
14 CONSTITUTION.

15
16 7) THE STATUTES UNDER WHICH THE DEFENDANT
17 IS CHARGED AND CONVICTED IN COUNT I AND II OF THE
18 INDICTMENT IMPERMISSIBLY CRIMINALIZES MERE
19 THOUGHT ABSENT ANY CRIMINAL INTENT OR ANY
20 OVERT STEP IN FURTHERANCE OF CRIMINAL INTENT.

21
22 WHEREFORE, THE DEFENDANT RESPECTFULLY
23 REQUESTS THIS HONORABLE COURT:

24 A) DISMISS INFORMATION ON COUNTS I AND II

25 B) GRANT SUCH OTHER AND FURTHER RELIEF AS MAY BE JUST
26 AND PROPER.



OFFICIAL SEAL

Birdie Jones

NOTARY PUBLIC-State of New Mexico

DATED: 01/22/2024

My Commission Expires 01-22-2027



OFFICIAL SEAL

Birdie Jones

NOTARY PUBLIC-State of New Mexico

Pg 3 of 3

RESPECTFULLY SUBMITTED,

Michael J. Nissen
MICHAEL J. NISSEN
(DEFENDANT)

ATTORNEY OR DEFENDANT WITHOUT ATTORNEY (NAME, ADDRESS)		RECEIVED FOR CLERKS FILED
MICHAEL J. NISSEN 02508151 P.O. Box 3540 CORE CIVIL CORRECTIONS CENTER MILAN, NM 87021		UNITED STATES DISTRICT COURT ALBUQUERQUE, NEW MEXICO
UNITED STATES DISTRICT COURT 333 LOMAS BLVD NW ALBUQUERQUE, NM 87102		JAN 24 2020
DEFENDANT; MICHAEL J. NISSEN 03/08/1965		MITCHELL R. ELPERS CLERK
PROOF OF SERVICE BY MAIL		CASE # 1:19-LR-00077-JB

- 1) I AM OVER THE AGE OF 18 AND NOT A PARTY TO THIS ACTION.
- 2) I SERVED THE FOLLOWING; MOTION TO DISMISS INFORMATION ON TWO COUNTS OF CONVICTION FOR LACK OF JURISDICTION
- 3) I SERVED A COPY OF THE DOCUMENTS ON 01/24/2020 AS FOLLOWS
☒ BY MAIL; I SERVED THE DOCUMENTS BY ENCLOSING THEM IN AN ENVELOPE AND DEPOSITING THE SEALED ENVELOPE WITH THE UNITED STATES POSTAL SERVICE WITH THE POSTAGE FULL PREPAID TO THE ADDRESS SHOWN BELOW:
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 333 LOMAS BLVD NW
 ALBUQUERQUE, NM 87102

4) I AM:

☒ NOT A REGISTERED NEW MEXICO PROLESS SERVER.

5) MY NAME, ADDRESS, TELEPHONE NUMBER

PAUL G. CARRILLO, JR.
 6503 KARLSON DR. NE
 ALBUQUERQUE, N.M. 87113

6) I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS



OF THE STATE OF NEW MEXICO THAT THE FOREGOING IS TRUE AND CORRECT: DATE: 01/24/2020

PAUL G. CARRILLO, JR.
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

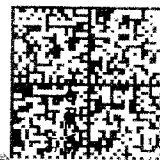
(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

PROOF OF SERVICE BY MAIL

MICHAEL NISSEN
POW 02508151
P.O. Box 3540
CIBOLA COUNTY CONCENTRATION CAMP
MELAND, NM 87021

Legal Mail

ALBUQUERQUE
NM 870
23 JAN '20
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Barn Swallow

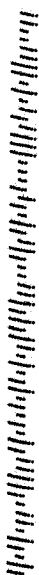
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UNITED STATES DISTRICT COURT
333 LOMAS BLVD
ALBUQUERQUE, NM 87102
JAN 24 2020

MITCHELL R. ELLERS
CLERK

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